IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7312 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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HASMUKH N PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 7312 of 2001

MR NK MAJMUDAR for Petitioner No. 1

MR JANI, ASSTT. GOVERNMENT PLEADER for Respondent No. 1-3

MR BC DAVE for Respondent No. 4

CORAM : MR.JUSTICE A.L.DAVE

Date of Order: 27/06/2002

ORAL ORDER

The petitioner is under suspension since April 21, 1991. He has approached this Court with folowing prayers:-

(a) Be pleased to admit this petition;

(b) Be pleased to issue a writ of mandamus or certiorari or any other appropriate writ, order or directions, quashing and setting aside the impugned order of suspension dated 24.4.1991 and be pleased to direct the respondents to reinstate the petitioner in service forthwith, with all consequential benefits including back wages;

(c) Pending admission, hearing and final disposal of this petition, be pleased to grant interim direction, directing the respondents to reconsider/review the order of suspension dated 24.4.1991 passed against the petitioner;

(d) Pending admission, hearing and final disposal of this petition, be pleased to direct the respondents to reinstate the petitioner in service forthwith.

Learned Advocate Mr. Majmudar has put forward the case of the petitioner. Learned Advocate Mr. D.C. Dave appearing for respondent No.4 could not explain the inaction on the part of the respondent No.4 in reconsidering the question of suspension in total neglect of the Circulars issued in this regard by Government of Gujarat.

In the opinion of this Court this is a gross case of inaction and neglect on the part of respondent No.4 in holding and concluding Departmental proceedings, if at all they are required to be held. The petitioner has been kept under suspension for 12 long years. The question of suspension has also not been reviewed periodically inspite of resolutions of the Government. The petition therefore deserves to be allowed in part by directing respondent No.4 to review the quesion of suspension and consider the question of reinstating the petitioner in service pending the enquiry, if any, in view of the Circulars issued by the Government in this regard. Appropriate decision will be taken by the respondent No.4 within a period of two weeks from receipt of an order of this Court. Mr. Majmudar states that he shall obtain direct service of this order qua respondent No.4. So far as reinstatement sought for by the petitioner is concerned, it cannot be granted at this stage. The petition therefore, is allowed in part. Respondent No.4 is directed to take steps as stated above. Rule is made absolute to the aforesaid extent with no order as to costs.

(A.L.Dave, J.)

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